

1 CRAIG H. MISSAKIAN (CABN 125202)
U.S. Attorney for the Northern District of California

2 RAVI T. NARAYAN (CABN 331858)
Acting Chief, Criminal Division

3 LORINDA I. LARYEA (DCBN 99769)
Acting Chief, Fraud Section

4 EVAN SCHLOM (DCBN 1028758)
Trial Attorney
5 Fraud Section, Criminal Division

6 950 Constitution Avenue, NW
Washington, D.C. 20530
7 Telephone: (202) 514-2000
8 FAX: (202) 514-3708
9 Evan.schlom@usdoj.gov

10 Attorneys for United States of America

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14
15 UNITED STATES OF AMERICA,) Case No. CR 24-00329 CRB
16 Plaintiff,)
17 v.) MOTION FOR ENTRY OF ORDER PURSUANT
18 RUTHIA HE, A/K/A RUJIA HE, and DAVID) TO FEDERAL RULE OF EVIDENCE 502(d)
19 BRODY,)
20 Defendants.) DATE: October 1, 2025
TIME: 1:30 PM
CTRM: Courtroom 6 – 17th Floor
JUDGE: Hon. Charles R. Breyer
)

21
22 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

23 PLEASE TAKE NOTICE that on October 1, 2025, at 1:30 p.m., or as soon thereafter as the
24 matter may be heard in the courtroom of the Honorable Charles R. Breyer, Senior United States District
25 Judge, located at 450 Golden Gate Avenue, San Francisco, California 94102, Courtroom 6, 17th Floor,
26 the United States, by and through its undersigned counsel of record, *i.e.*, the designated filter team (“Filter
27 Team”) will, and hereby does, move the Court entry of an order pursuant to Federal Rule of Evidence
28 502(d). In support of this Motion, the Filter Team states as follows:

MOTION FOR ORDER PURSUANT TO FEDERAL RULE OF EVIDENCE 502(D)
CR 24-00329 CRB

- 1 1. On July 22, 2024, the Court entered a Stipulated Protective Order [ECF No. 38].
 2 2. On November 6, 2024, the Court entered another Stipulated Protective Order [ECF No.
 3 144].

4 3. The Government has obtained material discoverable in this case through various grand jury
 5 subpoenas issued to third parties and other means, including certain Potentially Protected Material¹ over
 6 which third parties Done Global Inc. and/or Done Health P.C. (together, “Done” or “Third Party Privilege
 7 Claimant”) may hold a privilege.

- 8 4. The relevant Potentially Protected Material (the “Done PPM”) consists of the following:
- 9 a. Approximately 374 PPM items identified on a phone associated with Nikita
 10 Mercado;
 11 b. Approximately 205 PPM WeChat audio items identified on an iPhone 14 associated
 12 with Defendant He;
 13 c. Approximately 9,722 PPM items identified on an iPhone 12 associated with
 14 Defendant He;
 15 d. Approximately 6,893 PPM items identified on a phone associated with Haley Zhu;
 16 and
 17 e. Any future identified PPM for which Done may be a privilege holder.

18 5. To avoid protracted litigation over the Done’s privilege claims in this matter an expedite
 19 discovery productions to Defendants He and Brody, the United States Filter Team and Done agree to the
 20 following:

- 21 a. Done expressly authorizes the United States Filter Team to release the Done PPM to
 22 Defendants He and Brody.²

23
 24
 25 ¹ “Potentially Protected Material” is discovery material that is potentially protected from disclosure
 26 by the attorney-client privilege, work-product doctrine, or any other legally recognized privilege or
 27 protection. This includes, but is not limited to, material over which a potential privilege holder has asserted
 28 a specific claim of attorney-client privilege, work-product doctrine, or any other legally recognized
 privilege or protection, but over which a Court has not yet ruled.

2 ² The items listed at 3.b and 3.c have already been produced to Defendant He. They have been
 withheld from Defendant Brody.

- 1 b. The United States Filter Team will not release to the Government Prosecution Team or
2 any other party the Done PPM, except as authorized by the Court or expressly permitted
3 by Done.
 - 4 c. All materials produced by the Filter Team shall be designated with a word mark
5 “Produced Pursuant to FRE 502(d) Order.” Before using any of the Done PPM addressed
6 by this motion: (1) at trial; (2) in public pre-trial proceedings; or (3) in a manner that may
7 lead otherwise to public disclosure, a party shall give three (3) days’ notice prior to any
8 such intended use to: (1) counsel for Done; (2) their co-defendant; and (2) the Prosecution
9 Team. If Done does not consent to a party’s use of the Done PPM, that party may file a
10 motion with the Court seeking authorization to use the material.
 - 11 d. Pursuant to Federal Rule of Evidence 502(d), the attorney-client privilege and other
12 privileges or protections are not waived by disclosure connected with the litigation
13 pending before the Court, nor constitute waiver in this proceeding or any other federal or
14 state proceeding. Nothing in this Order precludes Done from asserting privilege claims
15 over the disclosed materials in this proceeding or in any future proceedings in federal or
16 state court.
 - 17 e. The Government reserves its rights to contest Done’s privilege assertions over the Done
18 PPM at any time. However, the United States Filter Team’s production of Done PPM to
19 the Defendants will not be construed as a waiver as to the Government or any other party,
20 and the Government agrees that it will not claim the United States Filter Team’s
21 production of Done PPM to Defendants operated as a waiver.
 - 22 f. In the event Done seeks to withhold or limit Defendants’ use of the Done PPM at a future
23 point on the basis of the attorney-client privilege, the attorney work product protection,
24 or any other privilege or protection, Defendants reserve their rights to contest those
25 assertions at that time.
- 26 6. The Done PPM shall be subject to the Stipulated Protective Orders [ECF Nos. 38 and 149].
 - 27 7. Undersigned counsel conferred via email with counsel for Done, and they consent to entry of
28 the Proposed Order.

8. Undersigned counsel sent the Proposed Order to counsel for Defendants He and Brody at 7:26 AM Pacific Time on Monday, September 29, asking them to provide their position by 7:00 PM Pacific Time that evening. But as of 6:30 AM Pacific Time on Tuesday, September 30, they have not responded.

Accordingly, the United States Filter Team respectfully requests that this Motion be granted and that the Court issue an order pursuant to Federal Rule of Evidence 502(d) for the relief requested herein.

DATED: September 30, 2025

Respectfully submitted,

CRAIG H. MISSAKIAN
Attorney for the United States

LORINDA I. LARYEA
Acting Chief, Fraud Section
U.S. Department of Justice

/s/
EVAN SCHLOM
Trial Attorney